

EDMUND G. BROWN JR., Attorney General  
of the State of California  
JOSE R. GUERRERO, State Bar No. 97276  
Supervising Deputy Attorney General  
CATHERINE E. SANTILLAN  
Senior Legal Analyst  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-5579  
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 1H 2007 631

PABLO N. REVERON  
176 15th Street, Apt. 11  
Oakland, CA 94612

**STATEMENT OF ISSUES**

Applicant/Respondent.

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about October 22, 2007, the Respiratory Care Board of California, Department of Consumer Affairs received an application for a respiratory care practitioner's license from Pablo N. Reveron (Respondent). On or about October 4, 2007, Pablo N. Reveron certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on June 18, 2008 and respondent requested a hearing on June 25, 2008.

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JURISDICTION

3. This Statement of Issues is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

6. Section 3732 of the Code states:

"(a) The board shall investigate an applicant for a license, before a license is issued, in order to determine whether or not the applicant has the qualifications required by this chapter.

"(b) The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

7. Section 3750 of the Code states:

"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

"(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision

1 of Division 2 (commencing with Section 500).

2 8. Section 3750.5 of the Code states:

3 "In addition to any other grounds specified in this chapter, the board may  
4 deny, suspend, or revoke the license of any applicant or license holder who has done any  
5 of the following:

6 "(a) Obtained or possessed in violation of law, or except as directed by a  
7 licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or  
8 furnished or administered to another, any controlled substances as defined in Division 10  
9 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug  
10 as defined in Article 2 (commencing with section 4015) of Chapter 9 of this code.

11 "(b) Used any controlled substance as defined in Division 10 (commencing  
12 with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in  
13 Article 2 (commencing with section 4015) of Chapter 9 of this code."

14 9. California Code of Regulations, title 16, section 1399.370, states:

15 "For the purposes of denial, suspension, or revocation of a license, a crime  
16 or act shall be considered to be substantially related to the qualifications, functions  
17 or duties of a respiratory care practitioner, if it evidences present or potential  
18 unfitness of a licensee to perform the functions authorized by his or her license or  
19 in a manner inconsistent with the public health, safety, or welfare. Such crimes or  
20 acts shall include but not be limited to those involving the following:

21 "(a) Violating or attempting to violate, directly or indirectly, or assisting or  
22 abetting the violation of or conspiring to violate any provision or term of the Act.

23 "(c) Conviction of a crime involving driving under the influence or reckless  
24 driving while under the influence."

25 COST RECOVERY

26 10. Section 3753.5, subdivision (a) of the Code states:

27 "In any order issued in resolution of a disciplinary proceeding before the  
28 board, the board or the administrative law judge may direct any practitioner or applicant

1 found to have committed a violation or violations of law to pay to the board a sum not to  
2 exceed the costs of the investigation and prosecution of the case."

3 11. Section 3753.7 of the Code states:

4 "For purposes of the Respiratory Care Practice Act, costs of prosecution  
5 shall include attorney general or other prosecuting attorney fees, expert witness fees, and  
6 other administrative, filing, and service fees."

7 12. Section 3753.1 of the Code states:

8 "(a) An administrative disciplinary decision imposing terms of probation  
9 may include, among other things, a requirement that the licensee-probationer pay the  
10 monetary costs associated with monitoring the probation. "

11 FIRST CAUSE FOR DENIAL OF APPLICATION

12 (Substantially-related convictions)

13 13. Respondent's application is subject to denial under code sections  
14 3750(d), 3752 and California Code of Regulations (CCR) 1399.370(c) [substantially-  
15 related conviction], 3750.5(a) [possession of a controlled substance], 3750.5(b) [use of a  
16 controlled substance] in that in 2003, he was convicted of possession of Diazepam<sup>1</sup>, a  
17 controlled substance; and in 2001, he was convicted of driving under the influence of  
18 alcohol. The circumstances are as follows:

19 2003 conviction for possession of controlled substance

20 14. On or about May 19, 2001, in the State of Florida, respondent was  
21 arrested for violating Florida Statute 893.13(6)(a), possession of Diazepam, a controlled  
22 substance, without a prescription and Statute 893.13(6)(b), possession of marijuana, not  
23 more than 20 grams.

24 15. On or about July 25, 2001, in Seminole County Circuit Court in the  
25 State of Florida, a criminal complaint was filed in case number 01-01833-CFA, charging  
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27 1. Diazepam (Valium) is a Schedule IV controlled substance as defined by section 11057  
28 of the Health and Safety Code.

1 respondent with two counts: Count 1 alleged respondent violated Florida Statute  
2 893.13(6)(a), possession of diazepam, a controlled substance, without a prescription.  
3 Count 2 alleged respondent violated Statute 893.13(6)(b), possession of marijuana, not  
4 more than 20 grams.

5           16. On October 17, 2001, Respondent entered a plea of nolo contendere  
6 to Count 1, Florida Statute 893.13(6)(a), possession of Diazepam, a controlled substance,  
7 without a prescription, a third degree felony. Judge Kenneth R. Lester ordered that  
8 adjudication of guilt was withheld, and respondent was placed on probation for 18 months.  
9 He was ordered to pay fines; undergo drug or alcohol screening and participate in  
10 treatment if deemed necessary; not to use or possess marijuana, cocaine or controlled  
11 substance of any kind except upon a valid medical prescription; submit to searches by the  
12 appointed Probation Officer; and perform 75 hours public service at the rate of 10 hours  
13 per month. The court minutes noted “no objection to transfer of probation.”

14           17. On or about March 28, 2003, respondent was found in violation of  
15 probation and his probation was reinstated for one year.

16           18. On or about July 10, 2003, in the State of Florida, Correctional  
17 probation Senior Officer Annie Gastelle filed an Affidavit alleging that on April 29, 2003  
18 respondent submitted a urine sample and analysis results indicated the sample tested  
19 positive for benzodiazepenes, a controlled substance, and marijuana. Based on the test  
20 results, respondent was charged with a violation of probation.

21           19. On or about October 13, 2003, Judge Debra S. Nelson revoked  
22 respondent’s probation and he was found guilty of violating Florida Statute 893.13(6)(a),  
23 possession of diazepam, a controlled substance, without a prescription, a third degree  
24 felony. He was sentenced to nine months jail, and allowed credit for 57 days of jail time  
25 served.

26           20. Therefore, respondent’s application for licensure is subject to denial  
27 based on his conviction for possession of diazepam, a controlled substance, without a  
28 prescription, a third degree felony, which is substantially related to the practice of

1 respiratory care, and is in violation of code sections 3750(d) and 3752 [conviction],  
2 3750.5(a) [possession of a controlled substance.] Further, his application for licensure is  
3 subject to denial because while on probation, he tested for benzodiazepenes and  
4 marijuana, in violation of code section 3750.5(b) [use of a controlled substance.]

5 2001 DUI conviction

6 21. On or about August 3, 2001, at 1:57 a.m., Police Officer Harvey  
7 Knowles of the Pooler, Georgia Police Department, stopped respondent for speeding 78  
8 miles per hour in a 50 mile per hour zone. While speaking with respondent, Officer  
9 Knowles smelled a strong odor of alcohol on his breath and person. Respondent agreed to  
10 take several field sobriety tests, but he was unable to successfully perform the tests.  
11 Respondent admitted that he had a few alcoholic drinks earlier in the evening. Based on  
12 his appearance and poor performance on the field sobriety tests, respondent was arrested  
13 for violating Georgia Statute 40-6-181, speeding and Statute 40-6-391(a)(5), driving under  
14 the influence. Respondent agreed to take a breathalyzer test, and his test results were  
15 positive for alcohol in the amount of .129%/.129%.

16 22. On or about October 9, 2001, respondent entered a plea of guilty to  
17 violating Georgia Statute 40-6-391(a)(5), driving under the influence. He was convicted,  
18 fined \$594.00 plus court costs, ordered to perform forty hours community service work,  
19 attend DUI school, serve ten days in jail of which nine days were suspended and he was  
20 given credit for one day time served. He was placed on probation for twelve months with  
21 fees. Respondent entered a plea of guilty to violating Georgia Statute 40-6-181, speeding,  
22 and paid a fine.

23 23. Therefore, respondent's application for licensure is subject to denial  
24 based on his conviction for driving under the influence, which is substantially related to  
25 the practice of respiratory care, and is in violation of code sections 3750(d), 3752 and  
26 CCR 1399.370(c) [conviction related to alcohol.]

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Denying the application of Pablo N. Reveron for a Respiratory care practitioner's license;
2. Directing Pablo N. Reveron to pay to the Respiratory Care Board of California the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: September 22, 2008

Original signed by Liane Zimmerman for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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